

Application No. 10/702,225
Attorney Docket No. RANPP0348USA

Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Claim Rejections - 35 USC § 102 and § 103

Claims 1-9 and 23 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,468,556 to Fuss et al. ("Fuss") and/or under 35 U.S.C. § 103(a) as being obvious in view of Fuss or Fuss in view of U.S. Patent No. 6,251,054 to Cruz et al. ("Cruz") and/or U.S. Patent No. 5,643,647 to Wischusen, III ("Wischusen").

Presumably in response to previous arguments, the Examiner has taken the position that since claim 1 is directed to a "dunnage producing system," this infers that the entire system is required to produce the dunnage, and therefore formed strips of dunnage are not being supplied to the positioning device (Office Action Mail Date 06232005, p. 2, and see also p. 3).

Accordingly, claim 1 has been amended to include the limitations of claim 2. Claim 2 has been canceled. As amended, the dunnage supply in claim 1 now includes a converter that converts a sheet stock material into a strip of relatively less dense dunnage, i.e. less dense than the sheet stock material from which it is converted. If it wasn't clear before, these amendments further clarify that a formed strip of dunnage is supplied to the positioning device.

The Examiner has also taken the position that references to the dunnage product are irrelevant in an apparatus claim (Part of Paper No./Mail Date 06232005, p. 3). References to the dunnage, however, include functional limitations that define a particular capability or purpose that is served by the recited elements (see MPEP § 2173.05(g)). The system converts a stock material into a strip of dunnage and then supplies that strip to the positioning device for further manipulation in the claimed manner. The capability of the positioning device to juxtapose portions of one or more strips of dunnage, for example, is functional language that limits the scope of the

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positioning device. Thus this functional language should not be ignored but must be considered in interpreting the scope of the claim.

Turning to the applied references: admittedly, Fuss joins the ends of planar strips 96. The planar strips 96 in Fuss (see Fuss, FIG. 18, for example) are not less dense than the stock material from which they were formed, however, until their ends are adhesively joined to form a convoluted non-planar shape particle 20.

In contrast to claim 1, no teaching or suggestion has been found in Fuss for a positioning device that juxtaposes portions of one or more of the convoluted-shape particles 20 received from a supply that includes a dunnage converter.

Additionally, in contrast to claim 3, no positioning device has been found in Fuss that juxtaposes longitudinally spaced portions of the same convoluted-shape particles 20.

And in contrast to claim 4, Fuss does not appear to teach or suggest a coiler operable to roll a convoluted-shape particle 20 into a coil and a stapler that is operable to connect a trailing end portion of the coiled particle to an adjacent next-innermost portion of the coil.

Neither Cruz or Wischusen overcome these deficiencies in Fuss.

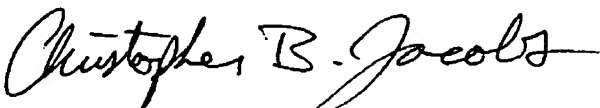
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Conclusion

Entry of the amendments, withdrawal of the rejections, and allowance of the claims is earnestly solicited.

Respectfully submitted,

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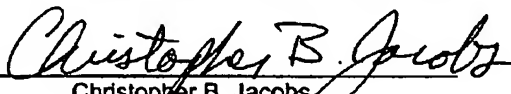
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I hereby certify that this paper, and any documents referred to as attached or enclosed, is being facsimile transmitted to the Patent and Trademark Office (fax no. 571-273-8300) on the date shown below.

Date: September 14, 2005


Christopher B. Jacobs

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